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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 UNITED STATES OF AMERICA, ) No. CR 14-0196 CRB  
17 Plaintiff, )  
18 v. ) RAYMOND CHOW'S OPPOSITION TO MOTION  
19 KWOK CHEUNG CHOW, a/k/a "Raymond )  
20 Chow", a/k/a "Hai Jai", a/k/a "Shrimpboy". )  
21 Defendant. )  
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29 **INTRODUCTION AND ARGUMENT**

30 On March 26, 2014, the Government issued a press release titled: "*California State Senator and*  
31 *Chee Kung Tong Dragonhead Among Twenty-Six Defendant's Charged in Federal Complaint.*"<sup>1</sup> The  
32 article alleges twenty-six defendants are charged with firearms trafficking, money laundering, murder-

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1 See March 26<sup>th</sup>, 2014. Northern District of California United States Article for "Immediate Release", attached as Exhibit A.

1 for-hire, drug distribution, trafficking in contraband cigarettes, and honest services fraud.<sup>2</sup> Referenced  
2 in the press release as “CKT Complaint,” the Government attached the FBI’s affidavit in support of  
3 probable cause consisting of a 137 page narrative summarizing five years of the FBI’s persistent  
4 attempts to lure citizens, public officials, and public figures into engaging in, or accepting proceeds  
5 from, illegal activity engineered and manufactured by the FBI.

6 A national media frenzy erupted, countless articles were published, and the case was thrust into the  
7 nightly television news cycle. The Government generated and fueled colossal public and media interest  
8 by connecting Raymond “Shrimp Boy” Chow and State Senator Leland Yee together with scandalous  
9 allegations. Although Mr. Chow and Mr. Lee are not charged with involvement with any of the same  
10 offenses, on April 4<sup>th</sup>, 2014, the government issued another press release titled: “*Grand Jury Returns An*  
11 *Indictment Against State Senator Yee, Raymond “Shrimpboy” Chow, And Twenty-Seven Related*  
12 *Defendants.*”<sup>3</sup>

13  
14 The Government strategically proceeded in this manner to create public opinion that Mr. Chow  
15 masterminded an organized crime syndicate with ties to State Senator Yee and public corruption. As  
16 media coverage became less and less accurate and more sensationalized, the Government failed to  
17 rectify known falsities. Most of this occurred before Mr. Chow was able to obtain counsel to publicly  
18 address the misconceptions. Stemming from the Government’s press releases, the media has eroded Mr.  
19 Chow’s presumption of innocence and in all likelihood he has been already wrongfully convicted in the  
20 eyes of the public.<sup>4</sup>

21  
22 The Government now attempts to preclude defense counsel from publicly refuting their one-  
23 sided theory of this case under the guise of a Rule 16(d) Protective Order that places a limitation on  
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25 <sup>2</sup> See Exhibit A.

26 <sup>3</sup> See April 4th, 2014. Northern District of California United States Article for “Immediate  
Release”, attached at Exhibit B.

27 <sup>4</sup> See article attached as Exhibit C describing the national media’s mockery of Mr. Chow’s  
28 presumption of innocence.

1 dissemination of every single word or item disclosed to Mr. Chow in discovery—everything! In reality,  
 2 the Government is seeking a non-reciprocal gag order. Proposed first by stipulation, the Government’s  
 3 nonreciprocal<sup>5</sup> blanket protective order precludes defense counsel from “permitting access of any kind”<sup>6</sup>  
 4 to materials turned over to by the Government, other than to agents of the defense and further requires  
 5 the defendants agree to grant the Government power to compel and review defense discovery logs  
 6 specifying who the material was released to, in the event of a leak, such that it would reveal strategic  
 7 information violating the attorney work-product doctrine. Although the Government has now resorted  
 8 to calling Mr. Chow “recalcitrant,”<sup>7</sup> they have failed to inform the Court of the full particulars of Mr.  
 9 Chow’s good faith attempts to resolve the issue so that he can move forward with an expedient trial.  
 10 Counsel for Mr. Chow requested material not necessitating any protective order to be turned over and  
 11 asked for an opportunity to inspect material potentially requiring a protective order for twenty hours  
 12 during the week of May 5, 2014, at the Government’s office.<sup>8</sup> The Government was not interested, and  
 13 instead moved to compel this protective order.  
 14

15 Rather than being “recalcitrant,” Mr. Chow holds the Government to their burden of articulating  
 16 requisite good cause for a blanket protective order and the Government has thus far failed to do so.  
 17 Now, the Government’s newly proffered concerns simply mask their real agenda here, to prosecute this  
 18 case in the media while precluding any response by defense counsel. However, as discussed below,  
 19 assuming *arguendo* the Government legitimately seeks protection of particular information, their  
 20  
 21

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22 <sup>5</sup> Rule 16 imposes reciprocal discovery obligations on defendants.

23 <sup>6</sup> See Stipulated and Proposed Protective Order attached as Exhibit D, P.2, L:3

24 <sup>7</sup> Although the Government repeatedly addresses that nearly all of the other attorneys in this  
 25 matter have signed the proposed stipulation other than counsel for Mr. Chow, counsel seeks only to  
 26 address the issue at hand; whether the Government has articulated requisite good cause for their  
 27 proposed blanket protective order that 1) will outweigh the burden it will place on Mr. Chow’s ability to  
 effectively prepare for a fair trial, 2) warrant granting the Government the ability to violate the attorney  
 work-product doctrine, and 3) overcome Mr. Chow’s specific need for disclosure.

28 <sup>8</sup> Affidavit of Curtis L. Briggs. Exhibit E.

1 concerns do not outweigh the extreme prejudice which will result to Mr. Chow in the event that the  
2 prosecution's overly-broad blanket protective order is granted.

3 Now, the Government is insisting on yet another protective order by stipulation involving  
4 transcripts, including transcripts of Mr. Chow's statements, and line sheets provided by the Government  
5 which, if stipulated to, will be subject to the same restrictions as the protective order currently being  
6 objected to by Mr. Chow in the instant motion. Mr. Chow objects to this as well. All protective orders  
7 advanced by the Government in this case have been non-reciprocal in that they seek only to hinder the  
8 defendant's rights and do not offer any provisions guaranteeing the Government will play by the same  
9 rules. Mr. Chow requests oral argument on this issue.  
10

11 **I.**

12 **THE GOVERNMENT'S PROPOSED PROTECTIVE ORDER**  
13 **VIOLATES THE FIRST AMENDMENT AND DUE PROCESS BY**  
14 **CONCEALING EXCULPATORY EVIDENCE FROM THE**  
15 **PUBLIC AND VIOLATES MR. CHOW'S RIGHT TO A FAIR**  
16 **PUBLIC TRIAL**

17 There is no time in a person's life when the First Amendment is more critical than when facing  
18 criminal accusations. The less money and resources a person has, the more important the First  
19 Amendment is in proving his innocence. This is especially true in the case of Mr. Chow, who has been  
20 victimized and targeted by the federal government with unbridled enthusiasm, and a seemingly unending  
21 supply of undercover agents, tax-payer funds, and resources, in stripping him of his freedom. The First  
22 Amendment is also critical to the press and the public in ensuring government accountability in the  
23 modern day era of endemic electronic surveillance, personal intrusions, and rampant, well-documented  
24 government abuse of American citizens' privacy rights. Mr. Chow and the public's only hope is  
25 transparency in government affairs. In addition to the Government's attempt to restrain the media and  
26 Chow's First Amendment rights, its potential failure to turn over exculpatory evidence is a violation of  
27 Mr. Chow's Due Process rights.

1 The Supreme Court has held that “the press and general public have a constitutional right of  
2 access to criminal trials.” *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 603. This  
3 constitutional presumptive right of access includes the criminal trial, “most pretrial proceedings” and  
4 “documents and kindred materials submitted in connection with the prosecution and defense of criminal  
5 proceedings.” *Id.*; *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 502 (1st Cir. 1989). The First  
6 Circuit, along with other circuits, has established a First Amendment right of access to records submitted  
7 in connection with criminal proceedings.

8  
9 Although an order prohibiting dissemination of discovered information before trial is not the  
10 kind of classic prior restraint that requires traditional First Amendment scrutiny, this does not eliminate  
11 the First Amendment “as a relevant consideration in protective order,” and it is also established that  
12 protective orders must be considered “within the framework of the requirement of good cause under  
13 Rule 16(d).” *Seattle Times*, 467 U.S. at 33, 104 S.Ct. 2199 *Anderson*, 805 F.2d at 7.

14  
15 Here, the Government strategically proceeded in a manner designed to wrongfully persuade  
16 public opinion by advancing the preposterous and unsupported theory that Mr. Chow masterminded an  
17 organized crime syndicate with ties to State Senator Yee and public corruption. Now they are seeking a  
18 protective order of any and all of the material the government produces in the initial disclosure which  
19 they designate as SUBJECT MATERIALS which potentially rebut their theory, thereby depriving Mr.  
20 Chow the ability to disseminate information to the public.

21 In addition to its First Amendment violations, the Government is also violating Mr. Chow’s Due  
22 Process by failing to turn over exculpatory evidence. *Brady v. Maryland*, *Berger v. United States*, and  
23 the Rules of Professional Conduct are controlling on this issue.

24  
25 In *Brady*, the Court dealt with a prosecutor’s suppression of exculpatory information. The Court  
26 held “that the suppression by the prosecution of evidence favorable to an accused upon request violates  
27 due process where the evidence is material either to guilt or to punishment, irrespective of the good faith

1 or bad faith of the prosecution.” *Brady v. Maryland* (1963) 373 U.S. 83, 87 [83 S.Ct. 1194, 1196-97, 10  
2 L.Ed.2d 215]. It is as much the prosecution’s duty to refrain from improper methods calculated to  
3 produce a wrongful conviction as it is to use every legitimate means to bring about a just one. *Berger v.*  
4 *United States*, 295 U.S. 78, 88 (U.S. 1935). Further, a prosecutor should not intentionally avoid pursuit  
5 of evidence merely because he believes it will damage the prosecutor's case or aid the accused. *ABA*  
6 *MRPC* 3.8.

7  
8 Here, the Government is blatantly withholding exculpatory evidence from Mr. Chow by refusing  
9 to turn over this evidence upon request without a protective order. We know the exculpatory evidence  
10 exists because the Government suggests all the conversations were intercepted, and states that Mr. Chow  
11 frequently made exculpatory statements as set forth in its affidavit. Therefore, the Government’s  
12 position that it will not turn over any discovery, much of which we know is exculpatory by their own  
13 admission, without a blanket protective order is a violation of Mr. Chow’s Due Process under *Brady* and  
14 is calculated for improper motives in violation of *Berger* and the Rules of Professional Conduct. Also,  
15 the fact that the Government has in its possession at this very moment exculpatory evidence and refuses  
16 to turn it over unconditionally smacks of misconduct and an attempt to deceive the general public.

17  
18 Finally, Mr. Chow sits amidst current public opinion wherein the Government has attempted to  
19 assassinate his character through the media. Mr. Chow will be prejudiced and his fundamental right to a  
20 fair public trial will be violated by allowing the Government to continue disclosing one-sided  
21 accusations while precluding defense from responding to the public. Further, concealing this basic  
22 exculpatory information which will, without question, become part of the judicial proceedings,  
23 improperly intrudes on the public and media’s First Amendment rights and is a Due Process violation.

## 24 II.

### 25 26 MISCONDUCT BY PUBLIC OFFICIALS ABSENT FURTHER 27 SPECIFICATON IS NOT GOOD CAUSE FOR A BLANKET 28 PROTECTIVE ORDER WITHOUT STIPULATION.

1 The gravaman of the Government's argument in this case that a blanket "protective order" is  
 2 necessary to prevent the release of comments about, and third party references to others, including  
 3 references to public officials and public figures that sometimes arose in a context that suggested possible  
 4 wrongdoing, but the investigation never developed evidence in that regard. (US Mot. Page 3: 26 – Page  
 5 4: 4).<sup>9</sup>

6 In support of their argument the Government relies on *United States v. Smith*, \_\_ F.Supp.2d \_\_,  
 7 2013 WL 6576791 (S.D.N.Y. 2013); and *United States v. Bulger*, 283 F.R.D. 46 (D.Mass. 2012). The  
 8 Government concedes that *Smith*, although not binding, is instructive as the facts are similar. However,  
 9 *Smith* actually supports Mr. Chow's position because the Government has not made an attempt to show  
 10 good cause. *Bulger* also supports Mr. Chow's position because the *Bulger* court found that the  
 11 Government failed to make a showing of good cause to continue a protective order.  
 12

13 In *Smith*, the Court denied a blanket protective order based on the Government's assertion of the  
 14 need to protect otherwise innocent third parties, including public officials, whose interests might be  
 15 jeopardized by being associated with the defendants due to the absence of specific examples preventing  
 16 the Court from making a finding, either way, as to whether there is good cause to enter a protective  
 17 order as the Government claimed. *See Smith*, at 29-33. The court held: the Government did not identify  
 18 any third parties whose interests would be harmed separate and apart from the concerns raised about the  
 19 ongoing investigations. *Smith*, at 32.  
 20

21 Further, in *Smith*, the Court explained "the Government has not offered information about,  
 22 among other things, the identities of the third parties, whether these other third parties are public  
 23 officials or private citizens, which specific discovery materials would unfairly sully their reputation, and  
 24

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25  
 26 <sup>9</sup> Although the Government also asserts initially the blanket protective order is necessary to  
 27 preclude the disclosure of undercover informants and concern for witness safety, simple redaction of any  
 28 informants identifying information will suffice, and the Government concedes witness safety, although  
 somewhat of an issue, is not a paramount one in this case. U.S Mot, P: 53-6.

1 whether the conduct of these individuals would be proven at trial (which would be open to the public).”  
2 *Smith*, at 32, fn.16. *Smith* also noted that the interests of public officials should not necessarily be on the  
3 same footing as nonpublic because these officials are “well-equipped to respond to any accusations of  
4 wrongdoing” and that “privacy interests are diminished when the party seeking protection is a public  
5 person subject to legitimate public scrutiny.” See *Smith*, at 29-33.

6 In the instant matter the Government suffers from the same deficiencies in its showing because it  
7 vaguely asserts that charged defendants and named interceptees often mentioned the names of third  
8 parties, including public officials and public figures. From the Government’s own words, “these  
9 comments and references sometimes arose in a context that suggested possible wrongdoing, but the  
10 investigation never developed evidence in that regard. It would be a herculean task, if not impossible, to  
11 extract such comments and references from the rest of the discovery materials, as they are embedded in  
12 many, many intercepted and otherwise pertinent conversations.” (*US Mot.* P. 3: 26 – P. 4: 4).

14 Akin to *Smith*, here the Government has only made vague assertions about comments and  
15 references that suggest possible wrong doing by third parties, public officials, and public figures, and  
16 has failed to provide this Court with specific examples that warrant the blanket protective order.  
17 Furthermore, the Government should not be permitted to shield itself behind the excuse that it would be  
18 a “herculean task” when it somehow had all sorts of resources available when it came to wire-taps of  
19 cars and phones, pole cameras, boating trips, and employing hundreds of agents in this operation; and  
20 had ample resources to conduct these operations throughout the Bay Area and the entire United States.

22 The Government also relies on *Bulger*, but the *Bulger* case is a completely different  
23 circumstance and only strengthens Mr. Chow’s position. In *Bulger*, after a history of leaks by the FBI  
24 and law enforcement, both defense and the Government stipulated to a protective order so as neither side  
25 would be prejudiced at trial. *U.S. v. Bulger*, (D. Mass. 2012) 283 F.R.D. 46, 48. Approximately 10  
26



1 months after stipulating, the defense and an intervening party moved to remove the order. *Id.* at 49. The  
2 *Bulger* court found that the Government had not met its burden to maintain the order. *Id.* at 60.

3 First, the circumstances in this case are different because Mr. Chow does not stipulate to an  
4 order. In fact, it is Mr. Chow's position that the Government already released the most scandalous  
5 evidence it had through the affidavit, and so Mr. Chow wishes to remain free to disseminate exculpatory  
6 information to the public as necessary and as consistent with his First Amendment rights to counteract  
7 the existing condition of him being already convicted in the media. This case also varies from *Bulger*  
8 because the Government has yet to make a showing of good cause, nor have they attempted to do so.  
9

10 Secondly, discussion in the *Bulger* case illustrates defense concerns with a blanket protective  
11 order because it would be a drain on already scant resources. The *Bulger* order required the defense to  
12 file all motions utilizing protected material as exhibits under seal, as would be the result in Mr. Chow's  
13 case under the protective order. *Id.* at 49. The defense in *Bulger* said, "This aspect of the protective  
14 order impeded defense counsel's ability to promptly prepare timely pleadings and other filings." *Id.*  
15 Blanket protective orders such as the one proposed in this case will create a significant drain on defense  
16 resources creating the need to file ongoing motions to unprotect material which will absolutely place Mr.  
17 Chow in jeopardy of ineffective assistance of counsel.  
18

19 A blanket protective order in this case is inappropriate, and the basis under which the  
20 Government asserts the need is rife with fallacious reasoning. It does not stand to reason that the  
21 Government would have unlimited resources to administer an investigation like this, yet be allowed to  
22 invoke a selective lack of resources regarding their capacity to prosecute this case. If the Government  
23 now lacks the time, energy, and resources to prosecute this case correctly, then the solution certainly is  
24 not to infringe on Mr. Chow's right to a fair trial.  
25

### 26 III.

#### 27 POTENTIAL EXPOSURE OF INDIVIDUALS WHO HAVE NOT 28 BEEN CHARGED BUT WHOSE ONGOING CRIMINAL

**ACTIVITIES ARE STILL UNDER INVESTIGATION ABSENT  
FURTHER SPECIFICATON IS NOT GOOD CAUSE FOR A  
BLANKET PROTECTIVE ORDER.**

The Government aptly points out that the *Smith* court was reluctant to issue a protective order based on the Government's concerns regarding jeopardizing ongoing investigation absent a showing of good cause by the government. (*US Mot.* P. 6: fn.7).

In *Smith*, unlike here, the Government submitted *ex parte* written letters indicating, "In particular, disclosure of the materials could: (i) reveal the targets of the investigations and the suspected criminal conduct being investigated; (ii) disclose the type of evidence being collected, or that could be collected, against these individuals; and (iii) officially confirm who some of the cooperating witnesses in these investigations are. *Smith*, at 33.

Here, the Government has done none of that. The Government merely asserts "of equal concern are those sensitive materials that, if improperly disclosed, could be used to identify individuals who have not yet been charged by the United States, but whose ongoing criminal activities are still under investigation." (*US Mot.* P. 3: 18-20). Again the vague assertion made by the Government does not provide requisite good cause for the blanket protective order because it is merely a conclusory unsupported statement. Mr. Chow insists this Court hold the Government to their burden of showing good cause. Granting a protective order without requiring the Government to make the required showing is contrary to the very cases which the Government bases its reliance, and violates Mr. Chow's Due Process rights.

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**IV.**

**GOOD CAUSE IS LACKING FOR A BLANKET PROTECTIVE  
ORDER AND WILL UNDULY BURDEN MR. CHOW'S ABILITY  
TO EFFECTIVELY PREPARE FOR TRIAL**

The proposed protective order is unduly burdensome on Mr. Chow's ability to effectively prepare for trial. As of the status conference held on March 17<sup>th</sup>, 2014, counsel for co-defendant Rinn Roeun, attorney Garrick Lew, addressed the court with concerns regarding stipulating to a blanket protective order. AUSA Frentzen stated that the protective order proposed in this case is that same that was proposed in "the Williams case." The implication was that there should be no objection to this proposed blanket order since it was exactly what was proposed in another high profile multi-codefendant case concurrently being prosecuted in this district, *U.S. v. Williams et al.*<sup>10</sup> What Mr. Frentzen did not inform the court was that, as of that day, all defendants in the Williams case heavily objected to the proposed protective order and that Mr. Frentzen was hours away from submitting a Reply to Defendant's Opposition to Protective Order in *Williams*.<sup>11</sup> In fact, Mr. Chow asks this court to take notice of the docket in *Williams* and that, as of this date, multiple well-articulated defense objections have now been filed in *Williams*.<sup>12</sup> The *Williams* proposed protective order is highly objectionable because it places an incredible burden on defense resources and violates the work product doctrine. That protective order has yet to be decided by the judicial officer in that case. Mr. Chow adopts and incorporates the objections made by defense counsel in *Williams* attached to this motion as exhibits. It should be absolutely no surprise to the Government that their proposed protective order in each case has numerous significant Constitutional pitfalls which should be decided carefully as to prevent unnecessary appellate litigation.

Also, the blanket protective order in this case is uniquely prejudicial to Mr. Chow given his status as a public figure, and he has a right to defend himself as such. Language in *Smith* is instructive because it

<sup>10</sup>*U.S. v. Williams et al*, case number 3:13-cr-00764-WHO-1.

<sup>11</sup> See Exhibit F.

<sup>12</sup> See Exhibit G.

1 suggests that public persons should be allowed to defend themselves in the public forum. *Smith* said the  
2 interests of public officials should not necessarily be on the same footing as nonpublic because these  
3 officials are “well-equipped to respond to any accusations of wrongdoing” and that “privacy interests are  
4 diminished when the party seeking protection is a public person subject to legitimate public scrutiny.”  
5 See *Smith*, at 29-33. Mr. Chow is not a public official *per se*, but he is a public person who holds a  
6 highly-respected public position in the Chinese community and is a well-known public figure, so he  
7 should be allowed to defend himself in the public to the extent recognized in *Smith*.  
8

9 The Government knows their case against Chow is contrived and is aware of strong public support  
10 for Chow which is why they wish to silence him—if exculpatory evidence were to make its way to the  
11 public, the case against Mr. Chow would be exposed for what it is and that is why the Government  
12 wants a blanket protective order. The Government immediately disseminated their one sided affidavit  
13 and criminal accusations in a public forum via multiple press releases to the public. They capitalized on  
14 Mr. Chow’s public image as a method to gain attention and attempted to sway public opinion in their  
15 favor from the outset. They now seek to preclude his defense counsel from refuting these one sided  
16 claims in the very forum in which they have elected to proceed: the court of public opinion. In support  
17 of their request for a protective order, the Government claims it would be a “herculean if not impossible  
18 task” to extract such comments and references as they are embedded in many, many otherwise pertinent  
19 conversations. (US Mot. Page 4: 4-6). This “herculean task” is the duty the Government assumed when  
20 attempting to prosecute this case.  
21

22 However, assuming the Government can provide good cause, which as of yet is completely  
23 lacking, the protective order they seek unduly burdens Mr. Chow’s right to effectively prepare for trial  
24 for the very reasons the Government claims it requires that all materials must be deemed “subject  
25 materials” and protected. In an attempt to circumvent their duty to specify which discovery material  
26 should be protected and specify that good cause exists, their solution to “secure simplicity in procedure  
27

and fairness in administration, and to eliminate unjustifiable expense and delay” (US Mot. Page 6: 18-19), is to turn over all materials as protected, and expect defense counsel to complete the “herculean” if not impossible task of extracting exculpatory information imbedded in otherwise protected materials and then move the Court for an order to release the exculpatory material. This is nothing more than deflecting their responsibility onto Mr. Chow when, after five years of investigation, they are in the better position to identify protected material. Further, the order would require the defendants to request the disclosure of exculpatory information first from the Government, and then set a hearing if they do not agree. Given there are 26 defendants with 26 potential theories of what is relevant, what is exculpatory, and what should or should not be protected, the Government’s proposed order is opening the door for this Court to potentially resolve hundreds of individual disputes over what should or should not be “subject materials” which will waste judicial resources; Mr. Chow intends to litigate these matters frequently if necessary. The better course of action is for this Court to require the Government to complete their “herculean task” which is a result of their herculean investigation.

## V.

### **A NON-RECIPROCAL PROTECTIVE ORDER IS AN AFFRONT TO MR. CHOW’S FAIR TRIAL RIGHTS.**

Federal Rule of Criminal Procedure 16 outlines reciprocal discovery obligations. The Government’s attempt to impose a non-reciprocal protective order on Mr. Chow in the context of the exchange of reciprocal discovery is not logical and is not consistent with Rule 16 discovery provisions.

It is a perversion of Rule 16 to insist on a non-reciprocal protective order in this case. It is especially so since the Government has capitalized on the opportunity to sway media support in favor of its unsupported allegations. It should raise a red flag to this court because the Government dealt the first blow in the media relying on its 137-page press release; the Government then dealt the second blow with

1 its second press release regarding the indictment. Therefore, any protective order surrounding Rule 16  
2 discovery must be reciprocal in this case to maintain the integrity of the process.

### 3 4 CONCLUSION

5 If the Government has concerns about disclosure of massive amounts of material they have gathered,  
6 they should bear the burden of specifying which information they deem should be protected, proffer  
7 good cause for such, and disseminate the materials to the defendants in that fashion. Doing this once,  
8 and doing this correctly is the established protocol under case law. Mr. Chow should not be penalized  
9 for the Government's failure to organize and administer this investigation properly over the course of  
10 the last five years.

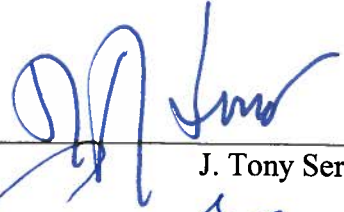
12 The Government's attempt to have a blanket protective order issued in this case is nothing more  
13 than a larger effort to restrain defendants' First Amendment rights in criminal cases in the Northern  
14 District of California. This effort should be seen for what it is and it should be recognized that the  
15 Government is establishing a pattern of making any unsupported conclusory statements necessary,  
16 sometimes varying from moment to moment and case to case, in a duplicitous attempt to establish a *de*  
17 *facto* new local rule for blanket protective orders simply because they expect to gain an advantage in  
18 the media while tying a defendant's arms behind his back by restraining the freedom of speech of him  
19 and his lawyers.

21 The Government's attempt to force all 26 defendants in this case to stipulate to a blanket protective  
22 order in exchange for Constitutionally mandated discovery is prosecutorial extortion. Knowing that  
23 many in-custody defendants needed discovery to adequately address detention hearings, the  
24 Government disingenuously agreed to provide an efficient exchange of information under the guise of a  
25 blanket protective order. Despite the fact that this extortion attempt worked for almost all defendants,  
26 the Government's nefarious motives and total insincerity was belied when Mr. Chow's counsel did not  
27

1 the Government's nefarious motives and total insincerity was belied when Mr. Chow's counsel did not  
2 stipulate and asked for the rapid exchange of uncontested documentation along with an opportunity to  
3 inspect potentially protected material. The request went ignored and instead the Government pursued  
4 the only course of action they ever really intended: a totally unjustified blanket protective order just for  
5 the sake of it.

6 For the foregoing reasons, Mr. Chow hereby requests a hearing on the matter.

7 DATED: May 14, 2014  
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10   
J. Tony Serra

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Gregory M. Bentley

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15 Attorneys for Kwok Cheung Chow  
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